

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN FRANCIS,

Defendant.

4:23CR3045

ORDER

On April 19, 2023, Defendant was charged in a two-count Indictment with (Count 1) possession with intent to distribute a controlled substance in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C); and (Count 2) carrying or using a firearm during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A)(i). ([Filing No. 1.](#)) The Indictment also includes a forfeiture allegation, seeking forfeiture of approximately \$6,107 in currency and a “9 mm Springfield Armory, model Hellcat, 9 mm pistol, with serial number BA544308.” ([Filing No. 1.](#)) Count 2 of the Indictment also describes the firearm as a “9 mm Springfield Armory, model Hellcat, 9 mm pistol, with serial number BA544308.” ([Filing No. 1.](#))

The Government has now moved to amend the Indictment to delete the firearm serial number due to a typographical error and to remove surplusage from the description of the firearm set out in Count 2 of the Indictment and in the forfeiture allegation. ([Filing No. 82.](#)) Specifically, the Government would like the firearm described as “a Springfield Armory Hellcat 9mm pistol.” ([Filing No. 82.](#)) Defendant does not object to the proposed change.

The Eighth Circuit has found that the amendment of a weapon’s serial number in an indictment does not necessarily require dismissal because “[c]orrection of a typographical error

which goes to the form rather than the substance of the indictment is permissible.” [*United States v. Neff*, 525 F.2d 361, 363 \(8th Cir. 1975\)](#). Here, modifying the Indictment as proposed by the Government is one of form, as opposed to substance. Thus, the Court will allow the Government’s proposed amendment.

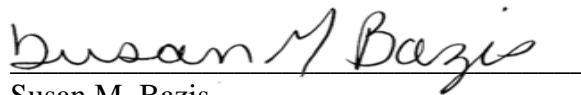
Accordingly,

IT IS ORDERED:

1. Defendant’s Motion to Amend Indictment ([Filing No. 82](#)) is granted.
2. The Indictment will be amended by interlineation on the first day of trial, where the matter may be taken up on the record.

Dated this 5th day of November, 2024.

BY THE COURT:

A handwritten signature in black ink, reading "Susan M. Bazis", written over a horizontal line.

Susan M. Bazis
United States District Judge